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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,525	10/28/2003	Joel Andrew Romig	HRA-14955	7257
27505	7590	11/08/2004	EXAMINER	
RANKIN, HILL, PORTER & CLARK LLP 4080 ERIE STREET WILLOUGHBY, OH 44094-7836			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 11/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/695,525

Applicant(s)

ROMIG, JOEL ANDREW *RM*

Examiner

Carlos Lugo

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The specification is objected to because of the following informalities:

- Paragraph 28 Line 1, change "arms" to -arms-.

Appropriate correction is required.

### *Claim Objections*

2. **Claims 1,5,12 and 18 are objected** to because of the following informalities:

- Claim 1 Line 12, change "fixed window" to -fixed member-.
- Claim 5 Line 3, change "first, actuated end and a second, latching end" to -first actuated end and a second latching end-.
- Claim 12 Lines 6 and 7, change "said latch arm having a first, actuated end, an elongated body and a second, latching end" to -said latch arm having a first actuated end, an elongated body and a second latching end -.
- Claim 18 Line 7, change "first, actuated end and a second, latching end" to -first actuated end and a second latching end-.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. **Claims 5,12 and 18 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5 and 12 recites that the latch arm includes a first latch arm and the latch assembly further includes a second latch arm. It is unclear what the applicant is trying to claim by this limitation. From the drawings and the current specification, it is clear that the latch assembly comprises a "latch arm" that includes first and second latch arms.

Therefore, in order to continue with the examination, the limitation will be considered as the latch assembly comprising "the latch arm" (as a unit) that includes first and second latch arms.

Claim 18 recites that the latch housing moves, as stated in step "d". It is unclear how the latch housing can moves if the latch housing is coupled to the sliding member. Therefore, in order to continue with the examination, the limitation will not be considered.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-5,12 and 13 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 6,174,003 to Smart.

Regarding claim 1, Smart discloses a window assembly (Col. 1 Lines 8-10) comprising a fixed member (where 14,15 and 16 is located) and a sliding window (where 10 is located).

A catch housing (14,15 and 16) is secured to the fixed member and a latch housing (10) is secured to the sliding window.

A latch assembly is movably secured to the latch housing and releasably secured to the catch housing.

The latch assembly comprises a latch arm (18 and 19) pivotally secured to the latch housing and biased into engagement with the catch housing; and a latch actuator (20,21,24 and 25) movable to pivot the latch arm out of engagement with the catch housing. The latch actuator permits the sliding window to be slidably moved away from the fixed member.

As to claim 2, Smart discloses that the latch actuator is slidably secured to the latch housing and is moveable relatively toward and away from the catch housing.

As to claims 3 and 4, Smart discloses that the latch arm extends from the latch housing toward the catch housing.

As to claims 5 and 13, Smart discloses that the latch arm includes first and second latch arms (18 and 19). Each arm includes a first actuated end and a second latching end. The latching end is adapted to releasably engage the catch housing and the actuated end are engaged to the latch actuator to move the latching ends out of engagement with the catch housing.

As to claim 12, Smart discloses that the latch arm has a first actuated end, an elongated body and a second latching end. The actuated end is received within the latch housing, the body portion projects from the latch housing and the latching end is disposed outside the latch housing.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-19 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 1,143,653 to Smith in view of US Pat No 6,174,003 to Smart and further in view of US Pat No 1,264,814 to Kornstein.

Regarding claim 1, Smith discloses an assembly comprising a fixed member and a sliding member. A latch housing (10,14 and 23) is secured to the sliding member.

A latch assembly is movably secured to the latch housing and releasable secured to the catch housing.

The latch assembly comprises a latch arm (28) pivotally secured to the latch housing; and a latch actuator (12,35 and 36) movable to pivot the latch arm out of engagement. The latch actuator permits the sliding member to be slidably moved away from the fixed member.

However, Smith fails to disclose that the assembly is a window assembly and that the fixed member has a catch housing. Smith discloses that the assembly is a sliding door assembly having a fixed and a sliding member and that the fixed member includes a catch (17), not a catch housing.

Smart teaches a similar lock assembly that could be used in either a sliding door or a window having a fixed and a sliding member in order to secure the sliding member against the fixed member.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the lock assembly of Smith, in a sliding device, such as a window, as is taught by Smart, in order to close the sliding member against the fixed member.

As to the catch housing, Kornstein teaches that it is well known in the art to have a catch housing (23) attached to a fixed member.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a catch housing, as taught by Kornstein, into the device as described by Smith, in order to secure that latch arm within the catch.

As to claim 2, Smith discloses that the latch actuator is slidably secured to the latch housing and is moveable relatively toward and away from the catch.

As to claims 3 and 4, Smith discloses that the latch arm extends from the latch housing toward the catch.

As to claims 5 and 13, Smith discloses that the latch arm includes first and second latch arms (28). Each arm includes a first actuated end and a second latching end. The latching end is adapted to releasably engage the catch and the actuated end are engaged to the latch actuator to move the latching ends out of engagement with the catch.

As to claims 6,7,14 and 15, Smith fails to disclose that the catch has front, rear, upper, and lower walls cooperate to define an end opening through which the latch arms extend and that the upper and lower walls defines slotted openings that receive the latch arms second latching ends.

Kornstein teaches that it is well known in the art to have a catch housing (23) that includes front, rear, upper, and lower walls cooperate to define an end opening through which the latch arms extend. Also, Kornstein teaches that the upper and lower walls define slotted openings that receive the latch arms second latching ends (the opening between 41 and the rear wall, Figures 1 and 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was to provide a catch housing with front, rear, upper, and lower walls and that the upper and lower walls define slotted openings that receive the latch arms second latching ends, as taught by Kornstein, into a lock assembly as described by Smith, in order to secure that latch arm within the catch.

As to claim 8, Smith discloses that the latch actuator (12) is slidably secured to the latch housing and is moveable relatively toward and away from the catch housing.

As to claims 9 and 16, Smith discloses that the assembly further comprises a biasing spring (37) associated with the latch arms and serving to bias the latch arms latching ends into engagement with the catch housing.



As to claims 10 and 17, Smith discloses that each of the latch arms further includes a pivot pin that is received in the latch housing. The pivot pin defines an axis about which the latch arm rotates.

As to claim 11, Smith discloses that the latch housing includes rails (the upper and lower walls of the latch housing) that guide the latch actuator as the latch actuator is slidably moved.

As to claim 12, Smith discloses that the latch arm has a first actuated end, an elongated body and a second latching end. The actuated end is received within the latch housing, the body portion projects from the latch housing and the latching end is disposed outside the latch housing.

As to claims 18 and 19, Smith, as modified to Smart and Kornstein, disclose or suggest a method for operating a latch assembly in lock or unlock the sliding member with respect to the fixed member.

9. **Claims 6-10 and 14-17 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,174,003 to Smart as applied to claim 1 above, and further in view of US Pat No 1,264,814 to Kornstein.

Regarding claims 6,7,14 and 15, Smart fails to disclose that the catch has front, rear, upper, and lower walls cooperate to define an end opening through which the latch arms extend and that the upper and lower walls defines slotted openings that receive the latch arms second latching ends.

Kornstein teaches that it is well known in the art to have a catch housing (23) that includes front, rear, upper, and lower walls cooperate to define an end opening

through which the latch arms extend. Also, Kornstein teaches that the upper and lower walls define slotted openings that receive the latch arms second latching ends (the opening between 41 and the rear wall, Figures 1 and 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a catch housing having front, rear, upper and lower walls with the upper and lower walls define slotted openings that receive the latch arms, as taught by Kornstein, into a device as described by Smart, in order to house and secure the latch arms inside the catch housing.

As to claim 8, Smart discloses that the latch actuator is slidably secured to the latch housing and is moveable relatively toward and away from the catch housing.

As to claims 9 and 16, Smart discloses that the assembly further comprises a biasing spring (28) associated with the latch arms and serving to bias the latch arms latching ends into engagement with the catch housing.

As to claims 10 and 17, Smart discloses that each of the latch arms further includes a pivot pin (26 and 27) that is received in the latch housing. The pivot pin defines an axis about which the latch arm rotates.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone

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number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

Carlos Lugo  
AU 3677

November 1, 2004.

A handwritten signature in black ink, reading "Daniel P. Stodola". The signature is fluid and cursive, with a large initial "D" and "S".

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600